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State of Utah
DEPARTMENT OF HEALTH
DIVISION OF ENVIRONMENTAL HEALTH

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m/027/007

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DIVISION OF
OIL, GAS & MINING

December 6, 1990

DOGM
MINERALS PROGRAM
FILE COPY

Mr. E.B. King
Jumbo Mining Company
6305 Fern Spring Cove
Austin, TX 78730

Re: Receipt of Ground Water Discharge Permit
Application for Jumbo Mining Company's
Drum Mine

Dear Mr. King:

We have received the application for a Ground Water Discharge Permit for Jumbo Mining Company's gold heap leach operations at the Drum Mine. The application is now in the process of review. Completion of the initial review is anticipated before December 30, 1990. A draft permit will be compiled upon satisfactory resolution of any deficiencies in the application.

The fee for permit issuance will be \$9,000. If you have any questions on this matter please call me at (801) 538-6146.

Sincerely,

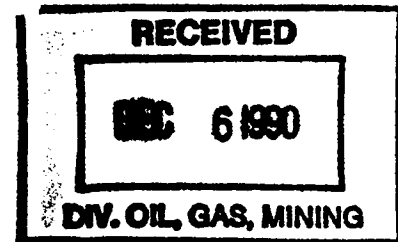
Mark Novak, E.H. Scientist
Ground Water Protection Section
Bureau of Water Pollution Control

MN:kc

cc: Central Utah District Health Dept.
Roger Foisy, District Engineer
Solid & Hazardous Waste
Oil, Gas & Mining

Q:JUMBRCT.LTR

Steven E. Clyde #0686
CLYDE, PRATT & SNOW P.C.
Attorneys for Petitioner
200 American Savings Plaza
77 W. 200 South
Salt Lake City, Utah 84101
Telephone (801) 322-2516



BEFORE THE DIVISION OF OIL, GAS, AND MINING,
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH

IN RE: JUMBO MINING COMPANY,
DRUM MINE PERMIT M/027/007

REPLY TO OBJECTION OF
WESTERN STATES MINERALS
CORPORATION TO PETITION
REQUESTING COMMENCEMENT OF
INFORMAL AGENCY ACTION

Division File Number
M/027/007

Petitioner, Jumbo Mining Company, hereby replies to the Addendum Western States Minerals Corporation filed at the informal hearing to its earlier Objection to the Petition filed by Jumbo Mining Company.

By conference call on November 19, 1990, the parties agreed to not brief or otherwise submit additional written materials to the Division in connection with the informal hearing. Notwithstanding that agreement, Western States filed its Addendum at the hearing. Accordingly, Jumbo feels it necessary to respond to this additional memorandum.

Western States restates its two arguments in support of its initial Objection. First, it contends that the leak test being proposed constitutes mining operations under the rules of the Division. Second, it contends that Western States would somehow be prejudiced if Jumbo were allowed to proceed with this test. Both of these contentions are erroneous.

Rule R613-1-106 defines those activities that constitute "mining operations" under the rules and regulations of the Division. That same section also defines those activities that are not considered to be mining operations under the Division's rules. "Mining operations" does not include:

[T]he extraction of sand, gravel, and rock aggregate; the extraction of oil and gas; the extraction of geothermal steam; smelting or refining operations; offsite operations and transportation; or reconnaissance activities which will not cause significant surface resource disturbance and do not involve the use of mechanized earth-moving equipment such as bulldozers or backhoes. (Emphasis added).

The spraying of water containing a weak residual cyanide content for the purpose of testing the integrity of the plastic liners beneath the heap pads themselves is not "mining", but is more in the nature of reconnaissance activities which are expressly exempted from the definition of "mining operations." The leak testing will not involve any earth-moving activities. No surface areas will be disturbed by

this activity. Therefore, this activity could easily be viewed as an exempt activity under the Division's own rules.

However, even if this activity is viewed as "mining operations" there will be no prejudice to Western States. Jumbo has agreed to assume the full reclamation responsibility for these two heaps, whatever that responsibility might ultimately be. It has posted a bond in the approximate amount of \$25,000 to cover the estimated costs of reclamation as determined by the Division. If that amount is subsequently determined to be inadequate, Jumbo is willing to bond for the additional amount required, if any, to insure that the property is properly reclaimed.

Western States' refusal to transfer the mining permit as it relates to these two heaps is a clear breach of its contract with Jumbo and is also a breach of the covenants contained in the Quit Claim Deed and Assignment. Western States has conveyed its title to the Drum Mine claims owned by Western. It has assigned all of its right, title and interest in the mining leases and all permits relating to the Drum Mine to Jumbo. All that remains for Western States to perform under the contract is to make the ministerial transfer of the permit as it relates to these two heaps to Jumbo, which it has

refused to do. Western has no legal interest remaining in this property.

Western States' only connection with this land relates to certain defaults in the performance of the terms and conditions of its mining permit. The primary problem is the stockpiling of topsoil on the property for reclamation. This particular default occurred prior to the sale of this property and the transfer of possession to Jumbo.

The State of Utah is aware of this and has taken the position that performance of this condition is Western State's responsibility. This is Jumbo's position as well. The State of Utah still holds Western States' reclamation bond to insure its compliance.

If Western States would meet the conditions of its permit--the stockpiling of the approximately 37,000 to 50,000 cubic yards of top soil for reclamation purposes, or agree to the execution on its bond for that purpose, there would be no dispute between these parties. However, Western States had declined to do so and has now filed suit in Colorado in an effort to rewrite the agreement between the parties.

Western States refusal to unconditionally transfer the mining permit as it relates to these two heaps (LG #2 and #7) is nothing more than a transparent attempt to exert economic

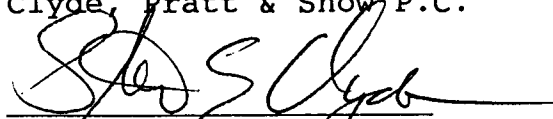
leverage against Jumbo to force it to assume Western States' contractual obligations for stockpiling of topsoil. Jumbo did not agree to assume this liability and it has no intention of correcting Western States' past permit defaults.

However, that issue is not before the Division for resolution and it need not be resolved in the context of this informal proceeding. It will be resolved in the Colorado litigation. In the meantime, Western States will not be prejudiced in any way by the conducting of these leak tests. The reclamation burden will not be expanded or increased as a result of this test. However, in the unlikely event that some ground water contamination occurs as a result of this test, Jumbo has represented to both the Division and to Western States that it will assume the full responsibility for the reclamation of these two heaps, including the restoration of topsoil for these two heaps, and regardless of the success of the leak tests. Given the fact that Western States will be fully relieved of any reclamation responsibilities for these two heaps and the small waste dump that exists under Heap #7, it is difficult to imagine how Western States could be harmed in any way by the Division allowing Jumbo to proceed with the leak tests that have been ordered by the Water Pollution Control agency of the State.

Accordingly, Jumbo requests that its Petition be granted,
and that it be allowed to conduct the leak tests.

Dated this 6th day of Dec., 1990.

Clyde, Pratt & Snow P.C.

A handwritten signature in black ink, appearing to read "S. E. Clyde", written over a horizontal line.

By: Steven E. Clyde
Attorneys for Petitioner

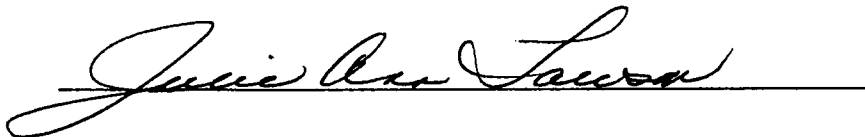
MAILING CERTIFICATE

I hereby certify that on this 6th day of November, 1990, I caused a true and correct copy of the Reply to Western States Minerals Corporation's Objection to the Petition to be deposited in the United States mail, postage prepaid, addressed to the following:

Western States Minerals Corporation
c/o Stephen D. Alfers
Richard A. Westfall
Davis Graham and Stubbs
P.O.Box 185
Denver, Colorado 80201-0185

James R. Haisley
Davis, Graham & Stubbs
1600-87 Eagle Gate Tower
60 East South Temple
Salt lake City, Utah 84111-1006

Mr. Lowell P. Braxton
Associate Director, Mining
Division of Oil, Gas, and Mining
Department of Natural Resources,
355 West North Temple
31 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

A handwritten signature in cursive script, reading "Julie Ann Lawson", is written over a horizontal line.